

II. EMERGENCY PROCUREMENT

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PROCUREMENT **TOOLBOX**

EMERGENCY + EXIGENCY

In emergency and exigent circumstances, there may be an *immediate* need for goods and services where noncompetitive or limited competition proposals [2 CFR 200.320(f)] would be the best procurement method to use.

Emergency: An emergency is a *threat* to health, life or safety.

Exigency: An exigency is NOT an emergency but requires **immediate** actions.

When a Subrecipient (Applicant) has cause and uses exigency or emergency procurement procedures, be reminded that once the documented exigency or emergency period ends, Subrecipients (Applicants) **must transition** to a procurement process that includes **full** and **open competition**.

All efforts must be **fully documented**.

EMERGENCY	EXIGENCY
<ul style="list-style-type: none"> An unexpected and unusually dangerous situation that calls for immediate actions or an urgent need for assistance or relief. 	<ul style="list-style-type: none"> Something that is necessary in a particular situation that requires or demands immediate aid or actions.
<ul style="list-style-type: none"> Involve threat to life, public health or safety, improved property, and/or represents some other form of dangerous situation. 	<ul style="list-style-type: none"> Not limited to life, health or safety, improved property and/or some other form of dangerous situation.
<ul style="list-style-type: none"> The use of emergency procurement procedures is an exception and should be used only during the actual emergency circumstances. Documentation supporting the existence of the emergency circumstances must be maintained by the Subrecipient (Applicant). 	
<ul style="list-style-type: none"> Costs must still be reasonable. 	
<ul style="list-style-type: none"> Procurement must still comply with all other procurement standards including: <ul style="list-style-type: none"> » Contract clauses; » Federal bonding requirements (construction / facility improvement); » Awarded to a responsible Contractor; » Cost is fair and reasonable; and » No prohibited Contracts used. 	
<ul style="list-style-type: none"> Do not use a piggyback Contract* or give a local preference. <p>* The post-award use of a Contract that allows for an entity that was not contemplated in the original procurement to purchase the same supplies or equipment through that original document or process.</p>	



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DEBRIS CONSIDERATIONS

In many cases, debris removal is the most expensive part of response and recovery efforts, so it is important to get it right!

Eligibility

Removal of debris falls under **Category A of Emergency Work**. To be **eligible** for reimbursement, debris removal must:

- Eliminate *immediate* threats to lives, public health and safety;
- Eliminate *immediate* threats of significant damage to improved public or private property;
- Ensure **economic recovery** of the affected community; or
- **Mitigate risk** to life and property by removing substantially damaged structures.

DEBRIS REMOVAL IS GENERALLY ELIGIBLE FROM:	DEBRIS REMOVAL IS GENERALLY NOT ELIGIBLE FROM:
<ul style="list-style-type: none"> • Improved public property; • Public right-of-way (ROW); and • If Subrecipient (Applicant) allows residents to place debris in public ROW, removal of that debris is eligible for a <i>limited</i> period of time. 	<ul style="list-style-type: none"> • Private property; • Federally maintained navigable channels and waterways; • Agricultural land; or • Natural, unimproved land, such as heavily wooded areas and unused areas.

Emergency Work, including debris removal, must be **completed within six (6) months** from the declaration date unless an extension is granted.

Debris Impact Locations

Subrecipients (Applicants) are responsible for identifying **locations** of debris impacts.

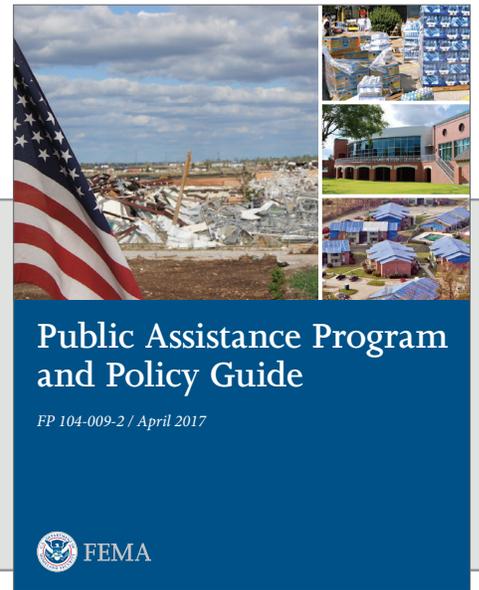
- Costs associated with the initial survey are considered **indirect, management costs** and are not reimbursable.
- Costs of further detailed **inspections** to determine **quantity** of debris and method of removal are **eligible** as Direct Administrative Costs (DAC).



Learn More

To learn more about debris management **download:**

- FEMA *Public Assistance Program and Policy Guide (PAPPG)*: [fema.gov/media-library/assets/documents/111781](https://www.fema.gov/media-library/assets/documents/111781)
- FEMA *Debris Management Guide*: [fema.gov/public-assistance-local-state-tribal-and-non-profit/debris-management-guide](https://www.fema.gov/public-assistance-local-state-tribal-and-non-profit/debris-management-guide)
- FEMA *Debris Monitoring Guide*: [fema.gov/pdf/government/grant/pa/fema_327_debris_monitoring.pdf](https://www.fema.gov/pdf/government/grant/pa/fema_327_debris_monitoring.pdf)
- GOHSEP - produced Debris Guide: *What you need to know about Debris Operations. NOW!*: gohsep.la.gov/Portals/0/Documents/Publications/GOHDebrisGuide.pdf



What you need to know about DEBRIS OPERATIONS. NOW!

Purpose of this document: To provide summary guidance on debris management monitoring and operations. You are responsible for following all local + State + Federal regulations.



PRE-DISASTER

RESPONSE

RECOVERY

BEST PRACTICES PRE-DISASTER*

- Develop a debris management plan.
- A better practice is to develop a FEMA-approved debris management plan.
- Identify a Louisiana Department of Environmental Quality (LDEQ) permitted debris management site.
- Prequalify your debris monitoring contractors + maintain list.
- Prequalify debris contractors + maintain list.
- Develop a Request for Proposal (RFP) template for debris removal + monitoring contracts.
- Establish collection priorities.

*The above represent Best Practices to assist in assuring that Subrecipient (Applicant) maximize the funds they are eligible to receive and retain those funds through the reimbursement and audit processes.

BASIC DEBRIS MANAGEMENT CHECKLIST

<ul style="list-style-type: none"> <input type="checkbox"/> Establish debris operation priorities to eliminate immediate threat to lives and public property. <input type="checkbox"/> Consider using in-house force account labor (FAL) prior to awarding debris contract(s). Subrecipient (Applicant) is responsible for up to 25% of contract costs. <input type="checkbox"/> Time + material costs are limited to work performed during the first 70 hours of actual work following a disaster. <ul style="list-style-type: none"> • After 70 hours, contracts should be unit price (strongly recommended) or lump sum. <input type="checkbox"/> Use RFPs for ALL WORK other than first 70 hours. <input type="checkbox"/> Use fair + open competitive procurement process. <input type="checkbox"/> Assure that all work is reflected in the Project Worksheet (PW) scope of work (SOW). <input type="checkbox"/> The RFP + contract SOW should be consistent with the PW SOW. Differences may cause reimbursement delays. <input type="checkbox"/> Cubic yards recommended as unit of measurement for most debris. <input type="checkbox"/> Award contract to most responsive bidder based on your established criteria. <input type="checkbox"/> All contracts are subject to cost reasonableness analysis (44 CFR 13.36(f) and 2 CFR 200.323). <input type="checkbox"/> Monitoring contract must provide for reporting requirements that demonstrate eligible work. <input type="checkbox"/> Recommend FEMA approve monitoring requirements to demonstrate eligible work. <input type="checkbox"/> Coordinate with LDEQ for all debris disposal permitting requirements. <input type="checkbox"/> DOCUMENT, DOCUMENT, DOCUMENT! 	<ul style="list-style-type: none"> <input type="checkbox"/> Monitor all debris removal closely. Your debris monitoring contractor should provide qualified and trained field monitors. <input type="checkbox"/> Ensure use of load tickets for both FAL + contracted debris operations. <input type="checkbox"/> Ensure debris operations are restricted to event-related debris. <input type="checkbox"/> Ensure debris operations are restricted to property + right of ways that are the responsibility of the Subrecipient (Applicant). <input type="checkbox"/> Encourage citizens to separate debris brought to the curb (e.g., vegetative debris, white goods, tires, etc.). <input type="checkbox"/> Ensure monitoring contractor conducts daily reconciliation of all debris operations documentation (e.g., load tickets, pictures, vehicle certifications, etc.). <input type="checkbox"/> DOCUMENT, DOCUMENT, DOCUMENT!
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See GOHSEP Procurement Guide for additional assistance.

NOTE: Only FEMA-eligible and reasonable debris costs will be reimbursed. ONLY FEMA DECIDES WHAT IS ELIGIBLE and REASONABLE.



Useful FEMA debris-related references.

DISASTER ASSISTANCE POLICIES (DAP)

- FEMA Public Assistance (PA) 9500 Series Policies 1998-2015 <https://www.fema.gov/media-library/assets/documents/128488>

FEMA GUIDANCE DOCUMENTS

- FEMA 325: *Public Assistance Debris Management Guide* (July 2007) <http://www.fema.gov/pdf/government/grant/pa/demagde.pdf>
- FEMA 327: *Public Assistance Debris Monitoring Guide* (October 2010) http://www.fema.gov/pdf/government/grant/pa/fema_327_debris_monitoring.pdf
- FEMA 329: *Debris Estimating Field Guide* (September 2010) http://www.fema.gov/pdf/government/grant/pa/fema_329_debris_estimating.pdf
- 44 CFR 13.36: <http://www.gpo.gov/fdsys/pkg/CFR-2014-title44-vol1/pdf/CFR-2014-title44-vol1-sec13-36.pdf>
- 2 CFR 200: http://www.ecfr.gov/cgi-bin/text-idx?SID=5fbd9b07f3dd43dd43dd47dea9fd4d835d963a&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY (LDEQ)

- LDEQ: <http://www.deq.louisiana.gov>



EMERGENCY PROCUREMENT MADE EASY – SAMPLE FILL-IN-THE-BLANK CONTRACT PROVISIONS

The following contract is intended for use during the exigent or emergency period. It is a **BASIC**, bare bones contract that contains the required FEMA contract provisions.

Once contracting for Permanent Work or larger projects, a more complex contracting vehicle may be necessary.



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STATE OF LOUISIANA

PARISH OF _____

TRIBE OF _____

Contract

Be it known, that effective upon date of last signature below,

(AGENCY / PARISH / CITY / TOWN / TRIBE) hereinafter referred to as SUBRECIPIENT (Applicant)

and

(CONTRACTOR'S name and legal address including zip code) (hereinafter sometimes referred to as "CONTRACTOR") do hereby enter into Contract under the following terms and conditions.

Scope of Service

CONTRACTOR hereby agrees to furnish the following services: [INSERT OR ATTACH]

Contract Modifications

No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required by law. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

Changes to the Contract include any change in a) compensation; b) beginning / ending date of the Contract; c) scope of work; and/or d) Contractor change through the assignment of Contract process. Any such changes, once approved, will result in the issuance of an amendment to the Contract.

Payment Terms

The CONTRACTOR shall invoice the SUBRECIPIENT (Applicant) directly and payment shall be made by the SUBRECIPIENT (Applicant) directly to the CONTRACTOR in accordance with the payment terms agreed to in this Contract.

Late Payments

Deliverables

CONTRACTOR will deliver the item(s) or service(s) as described below (or per the attached) per the following schedule.

Taxes

CONTRACTOR agrees that all applicable taxes are included in the schedule pricing, if applicable.

Termination for Cause

The SUBRECIPIENT (Applicant) may terminate this Contract for cause based upon the failure of CONTRACTOR to comply with the terms and / or conditions of the Contract, or failure to fulfill its performance obligations pursuant to this Contract, provided that the SUBRECIPIENT (Applicant) shall give the CONTRACTOR written notice specifying the CONTRACTOR'S failure. If within thirty (30) days after receipt of such notice, the CONTRACTOR shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the SUBRECIPIENT (Applicant) may, at its option, place the CONTRACTOR in default and the Contract shall terminate on the date specified in such notice.

The CONTRACTOR may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the SUBRECIPIENT (Applicant) to comply with the terms and conditions of this Contract, provided that the CONTRACTOR shall give the SUBRECIPIENT (Applicant) written notice specifying the SUBRECIPIENT'S (Applicant)'S failure and a reasonable opportunity for the SUBRECIPIENT (Applicant) to cure the defect.

Termination for Convenience

The SUBRECIPIENT (Applicant) may terminate this Contract at any time by giving **thirty (30) days** written notice to the CONTRACTOR of such termination or negotiating with the CONTRACTOR an effective date.

The CONTRACTOR shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

Ownership

All records, reports, documents, or other material related to this contract and/or obtained or prepared by CONTRACTOR in connection with the performance of the services contracted for herein shall become the property of SUBRECIPIENT (Applicant), and shall, upon request, be returned by CONTRACTOR to SUBRECIPIENT (Applicant), at CONTRACTOR'S expense, at termination or expiration of this Contract.

All records, reports, documents and other material delivered or transmitted to CONTRACTOR by the SUBRECIPIENT (Applicant) shall remain the property of the SUBRECIPIENT (Applicant), and shall be returned by CONTRACTOR to the SUBRECIPIENT (Applicant) at CONTRACTOR'S expense, at termination or expiration of this Contract.

Waiver

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified or deleted except by the written consent of both parties.

Indemnification + Limitation of Liability

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Contract.

CONTRACTOR shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the SUBRECIPIENT (Applicant) from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by CONTRACTOR, its agents, employees, partners or subcontractors in the performance of this Contract, without limitation; provided, however, that the CONTRACTOR shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the SUBRECIPIENT (Applicant).

CONTRACTOR will indemnify, defend and hold the SUBRECIPIENT (Applicant) harmless, **without limitation**, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be finally assessed against the SUBRECIPIENT (Applicant) in any action for infringement of a United States Letter Patent with respect to the Products, Materials, or Services furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the SUBRECIPIENT (Applicant) shall give the CONTRACTOR: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at CONTRACTOR'S sole expense, and (iii) assistance in the defense of any such action at the expense of CONTRACTOR. Where a dispute or claim arises relative to a real or anticipated infringement, the SUBRECIPIENT (Applicant) may require CONTRACTOR, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The CONTRACTOR shall not be obligated to indemnify that portion of a claim or dispute based upon: (i) SUBRECIPIENT'S (Applicant)'s unauthorized modification or alteration of a Product, Material, or Service; (ii) SUBRECIPIENT'S (Applicant)'s use of the Product, Material, or Service in combination with other products, materials, or services not furnished by CONTRACTOR; (iii) SUBRECIPIENT'S (Applicant)'s use in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if CONTRACTOR believes that it may be enjoined, CONTRACTOR shall have the right, at its own expense and sole discretion as the SUBRECIPIENT'S

(Applicant)'s exclusive remedy to take action no later than six (6) months after the issuance of an injunction in the following order of precedence: (i) to procure for the SUBRECIPIENT (Applicant) the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the SUBRECIPIENT (Applicant) up to the dollar amount of the Contract. Any injunction that is issued against the SUBRECIPIENT (Applicant) which prevents the SUBRECIPIENT (Applicant) from utilizing the CONTRACTOR'S product in excess of six (6) months and for which the CONTRACTOR has not obtained for the SUBRECIPIENT (Applicant) or provided to the SUBRECIPIENT (Applicant) one (1) of the alternatives set forth in the foregoing sentence is cause for the SUBRECIPIENT (Applicant) to terminate the Contract. In the event of such termination, the SUBRECIPIENT (Applicant) will not be obligated to compensate the CONTRACTOR for any costs incurred by the CONTRACTOR.

For all other claims against the CONTRACTOR where liability is not otherwise set forth in the contract as being "without limitation", and regardless of the basis on which the claim is made, CONTRACTOR'S liability **for direct damages, shall be the greater of \$100,000, the dollar amount of the Contract, or two (2) times the charges for services rendered by the CONTRACTOR under the Contract.** Unless otherwise specifically enumerated herein mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the CONTRACTOR is required to back-up the data or records as part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The SUBRECIPIENT (Applicant) may, in addition to other remedies available to them at law or equity and upon notice to the CONTRACTOR, retain such monies from amounts due CONTRACTOR, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

Insurance

CONTRACTOR will be required to provide the SUBRECIPIENT (Applicant) with Certificates of adequate insurance indicating coverage required. The CONTRACTOR shall maintain the insurance for the full term of this contract. Failure to comply shall be grounds for termination of this contract.

Performance Bond

CONTRACTOR shall provide a Performance Bond (Surety Bond) in the amount of _____ dollars (\$_____) to insure the successful performance under the terms and conditions of this Contract. The performance bond shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Services list of approved bonding companies which is published annually in the Federal Register, or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of policyholder's surplus as shown in the A.M. Best's Key Rating Guide or by an insurance company that is either domiciled in Louisiana or owned by Louisiana residents and is licensed to write surety bonds.

No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A-rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this Paragraph who are not on the treasury list shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

In addition, any performance bond furnished shall be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.

The CONTRACTOR shall maintain the performance bond for the full term of this contract. Failure to comply shall be grounds for termination of this contract.

Licenses + Permits

CONTRACTOR shall secure and maintain all licenses and permits, and pay inspection fees required to do the work required to complete this Contract, if applicable.

Severability

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application; to this end the terms and conditions of this Contract are declared severable.

Subcontractors

The CONTRACTOR may enter into subcontracts with third parties for the performance of any part of the CONTRACTOR'S duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of the CONTRACTOR to the SUBRECIPIENT (Applicant) for any breach in the performance of the CONTRACTOR'S duties. The CONTRACTOR will be the single point of contact for all subcontractor work.

Compliance with The Contract Work Hours + Safety Standards Act

1. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one (1) and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The SUBRECIPIENT (Applicant) upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such Contract or any other Federal

contract with the same prime contractor, or any other Federally-assisted contract subject to the *Contract Work Hours and Safety Standards Act*, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Assignment

CONTRACTOR shall not assign any interest in this contract by assignment, transfer, or novation, without prior written consent of the SUBRECIPIENT (Applicant). This provision shall not be construed to prohibit the CONTRACTOR from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the SUBRECIPIENT (Applicant).

Contract Controversies

Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where Contractors violate or breach Contract terms, and provide for such sanctions and penalties as appropriate. See 2 CFR Part 200, Appendix II, A.

Right to Audit

Access to Records. The following access to records requirements apply to this Contract:

1. The CONTRACTOR agrees to provide GOHSEP, SUBRECIPIENT (Applicant), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

Contractor's Certification of No Federal Suspension or Debarment

CONTRACTOR has a continuing obligation to disclose any suspensions or debarment by any government entity, including but not limited to General Services Administration (GSA). Failure to disclose may constitute grounds for suspension and/or termination of this Contract and debarment from future Contracts.

Contractor's Cooperation / Close-Out

The CONTRACTOR has the duty to fully cooperate with the SUBRECIPIENT (Applicant) and provide any and all requested information, documentation, etc. to the SUBRECIPIENT (Applicant) when requested. This applies even if this Contract is terminated and/or a lawsuit is filed. Specifically, the CONTRACTOR shall not limit or impede the SUBRECIPIENT's (Applicant)'s right to audit or to withhold SUBRECIPIENT (Applicant) owned documents.

Term of Contract

This Contract is effective upon approval and will end no later than _____ unless otherwise terminated in accordance with the Termination provision of this Contract. The SUBRECIPIENT (Applicant) has the option, upon acceptance by the Contractor, to extend for _____.

Commencement of Work

No work shall be performed by CONTRACTOR and the SUBRECIPIENT (Applicant) shall not be bound until such time as this Contract is fully executed between the SUBRECIPIENT (Applicant) and the CONTRACTOR and all required approvals are obtained.

E-Verify

CONTRACTOR acknowledges and agrees to comply with Federal law pertaining to E-Verify in the performance of services under this Contract.

Compliance with Civil Rights Laws

During the performance of this Contract, the CONTRACTOR agrees as follows:

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The CONTRACTOR will comply with all provisions of *Executive Order 11246 of September 24, 1965*, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The CONTRACTOR will furnish all information and reports required by *Executive Order 11246 of September 24, 1965*, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering SUBRECIPIENT (Applicant) and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government Contracts or Federally assisted construction Contracts in accordance with procedures authorized in *Executive Order 11246 of September 24, 1965*, and such other sanctions as may be imposed and remedies invoked as provided in *Executive Order 11246 of September 24, 1965*, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The CONTRACTOR will include the portion of the sentence immediately preceding paragraph one (1) and the provisions of paragraphs one (1) through seven (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of *Executive Order 11246 of September 24, 1965*, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering SUBRECIPIENT (Applicant) may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering SUBRECIPIENT (Applicant) the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

Record Retention

The CONTRACTOR shall maintain all records in relation to this Contract for a period of at least **THREE (3) years** after final payment.

Clean Air Act

1. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the *Clean Air Act*, as amended, 42 U.S.C. § 7401 et seq.
2. The CONTRACTOR agrees to report each violation to the SUBRECIPIENT (Applicant) and understands and agrees that the SUBRECIPIENT (Applicant) will, in turn, report each violation as required to assure notification to GOHSEP, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
3. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Energy Policy + Conservation Act

The CONTRACTOR hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the *Energy Policy and Conservation Act* (P.L. 94-163).

Clean Water Act

The CONTRACTOR hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the *Clean Water Act* which prohibits the use under non-exempt Federal Contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

FEDERAL WATER POLLUTION CONTROL ACT

1. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the *Federal Water Pollution Control Act*, as amended, 33 U.S.C. 1251 et seq.
2. The CONTRACTOR agrees to report each violation to the SUBRECIPIENT (Applicant) and understands and agrees that the SUBRECIPIENT (Applicant) will, in turn, report each violation as required to assure notification to the GOHSEP, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
3. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Anti-Lobbying + Debarment Act

The CONTRACTOR will be expected to comply with Federal statutes required in the *Anti-Lobbying Act* and the *Debarment Act*.

The CONTRACTOR hereby agrees to adhere to the mandate dictated by the *Copeland "Anti-Kickback" Act* which provides that each CONTRACTOR or SUBRECIPIENT (Applicant) shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

SUSPENSION + DEBARMENT

1. This Contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).
2. The CONTRACTOR must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by CONTRACTOR. If it is later determined that the CONTRACTOR did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to GOHSEP serving as Recipient and name of SUBRECIPIENT (Applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

CONTRACTORS who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any SUBRECIPIENT (Applicant), a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

Procurement of Recovered Materials

1. In the performance of this Contract, the CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired –
 - i. Competitively within a timeframe providing for compliance with the Contract performance schedule;
 - ii. Meeting Contract performance requirements; or
 - iii. At a reasonable price.
2. Information about this requirement, along with the list of EPA-designate items, is available at EPA's *Comprehensive Procurement Guidelines* web site, epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

DHS Seal + Logo + Flags

The CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS Agency officials without specific FEMA pre-approval.

Compliance with Federal Law + Regulations + Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The CONTRACTOR will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

No Obligation by Federal Government

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Contract.

Contract Monitoring

PERFORMANCE MEASURES

The performance of the Contract will be measured by the Contract Manager (CM), authorized on behalf of the SUBRECIPIENT (Applicant), to evaluate the CONTRACTOR'S performance against the criteria in the Statement of Work and are identified as:

Performance Requirements

CONTRACTORS shall provide staffing to support timely and accurate assistance to the SUBRECIPIENT (Applicant) as required to fulfill Task Order requirements. The expected performance metric numbers will be based on current work requirements.

Performance Measurement/Evaluation

The performance of the Contract will be measured by the CM, to evaluate the CONTRACTOR'S performance against the criteria in the Scope of Services. Performance measures for this contract shall include CONTRACTOR'S timely and successful completion, submission, and performance of any work product being sought and provided through this agreement, consistent with the provisions, goals and objectives of this Contract.

MONITORING PLAN

The CM will monitor the services provided by the CONTRACTOR and the expenditure of funds under this contract. The CM will be primarily responsible for the day-to-day contact with the CONTRACTOR and day-to-day monitoring of the CONTRACTOR'S performance. The monitoring plan is the following:

CONTRACT MANAGER (CM)

_____ is appointed as the CM for this contract. SUBRECIPIENT (Applicant) reserves the right to replace the CM at its discretion. The CONTRACTOR shall continue to be responsible for the management, supervision and performance of CONTRACTOR personnel.

GOHSEP PROJECT MONITOR (PM)

_____ is appointed as the Project Monitor (PM) for GOHSEP. SUBRECIPIENT reserves the right to replace the PM at its discretion.

RESPONSIBILITIES OF SUBRECIPIENT (APPLICANT) PERSONNEL

RESPONSIBILITIES OF CM:

- Monitors performance of the Contract.
- Provides guidance and assistance to the PM.

RESPONSIBILITIES OF PM:

- Provides oversight and direction on the activities of CONTRACTOR personnel.
- Serves as SUBRECIPIENT'S (Applicant's) principal point of contact for CONTRACTOR PM and as monitor of CONTRACTOR'S performance under this Contract.
- Regularly monitors the staffing levels of the CONTRACTOR and maintains/adjusts those staffing levels in accordance with the needs of SUBRECIPIENT (Applicant).

ASSIGNED CONTRACTOR PERSONNEL

The Project Manager for the CONTRACTOR is _____.

RESPONSIBILITIES OF CONTRACTOR PM:

- Serves as the day-to-day principal point of contact for the CONTRACTOR and to assure that CONTRACTOR'S personnel are performing within the Contract's scope of services.
- Ensure that the deliverables are produced.

Program Fraud + False or Fraudulent Statements or Related Acts

The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (*Administrative Remedies for False Claims and Statements*) applies to the CONTRACTOR'S actions pertaining to this contract.

The undersigned Contractor certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and Contracts under grants, loans, and cooperative agreements) and that all SUBRECIPIENTS (Applicants) shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the *Lobbying Disclosure Act of 1995*). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of CONTRACTOR'S Authorized Official

Name and Title of CONTRACTOR'S Authorized Official

Date

Complete Contract

This is the complete Contract between the parties with respect to the subject matter and all prior discussions and negotiations are merged into this Contract. This Contract is entered into with neither party relying on any statement or representation made by the other party not embodied in this Contract and there are no other agreements or understanding changing or modifying the terms. This Contract shall become effective upon final statutory approval.

Controlling Law-Venue

This agreement shall be governed by the laws of the State of Louisiana. Exclusive jurisdiction and venue for any and all suits arising out of, or related to, this agreement shall be in the _____ Court, Parish of _____ State of Louisiana.

For Tribal Applicant Contracts: This agreement shall be governed by _____. Exclusive jurisdiction and venue for any and all suits arising out of, or related to, this agreement shall be in the _____ Court.

THUS DONE AND SIGNED AT _____ on this ____ day of ____, 20__, and, IN WITNESS WHEREOF, the parties have executed this Contract.

WITNESSES' SIGNATURES:

CONTRACTOR SIGNATURE:

By: _____
Title: _____

THUS DONE AND SIGNED AT _____, Louisiana on this _____ day of ____, 20__, and, IN WITNESS WHEREOF, the parties have executed this Contract.

WITNESSES' SIGNATURES:

SUBRECIPIENT (APPLICANT) SIGNATURE:

By: _____
Title _____

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